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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,389	10/23/2001	Charles K. Wike JR.	9423	1315
26884	7590	10/19/2007		
PAUL W. MARTIN NCR CORPORATION, LAW DEPT. 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			EXAMINER LE, UYEN CHAU N	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/001,389

Applicant(s)

WIKE ET AL.

Examiner

Uyen-Chau N. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Appeal Brief

1. Applicant's arguments with respect to claims 8-27 (see section 7, pages 7-19 of the Appeal Brief filed 06/15/2007) have been considered but are moot in view of the new ground(s) of rejection. Accordingly, this Office Action is made Non-Final.

Allowable Subject Matter

2. The indicated allowability of claims 1-7 is withdrawn in view of the newly discovered reference(s) to Kawai et al (US 6719202 B1). Any inconvenience is respectfully regretted. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-4, 8-9, 13-16, 20-23 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawai et al (US 6719202 B1).

Re claim 1: Kawai et al discloses a method of operating a checkout terminal during a sales transaction comprising the steps of: allowing consumer/operator scanning of an item 100 for purchase via a scanner 30a; detecting (i.e., via detector 70), after successfully scanning the item (col. 7, lines 58-62; col. 8, lines 48+ and lines 65+), whether the item has an active electronic article surveillance tag 102 associated with the item 100 (col. 8, lines 8-12); and allowing deactivation of the active electronic article surveillance tag by the consumer/operator via an active electronic article surveillance tag deactivator 60 after detecting determining that the item has an electronic article surveillance tag 102, wherein the allowing consumer scanning, detecting and allowing deactivation are performed during a single sales transaction (figs. 1-2; col. 3, lines 60+; col. 6, line 43 through col. 42).

Re claim 2: wherein the step of detecting whether the item has an active electronic article surveillance tag 102 includes the step of utilizing an electronic article surveillance detector 60 (col. 9, lines 25-64).

Re claim 3: wherein the step of utilizing an electronic article surveillance detector 60, includes utilizing the electronic article surveillance detector 60 that is associated with the scanner 30a (figs. 1 & 2).

Re claim 4: further comprising the step of determining whether the electronic article surveillance tag 102 has been deactivated after the step of allowing deactivation of the active

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electronic article surveillance tag 102 after detecting determining that the item includes the electronic article surveillance tag 102 (col. 9, lines 12-30).

Re claim 8. Kawai et al discloses a checkout comprising: a scanner 30a operative to scan an item 100; an electronic article surveillance detector 70 operative to detect whether a successfully scanned item has an active electronic article surveillance tag 102; and an electronic article surveillance deactivator 60 operative to deactivate the active electronic article surveillance tag 102 after determining by the electronic article surveillance detector that a scanned item has the active electronic article surveillance tag 102 (figs. 1-2; col. 3, lines 60+; col. 6, line 43 through col. 42; col. 7, lines 58-62; col. 8, lines 48+ and lines 65+).

Re claim 9: wherein the electronic article surveillance detector 70 is associated with the scanner 30a (figs. 1 & 2).

Re claim 13: wherein the electronic article surveillance detector 70 comprises a coil (fig. 1) and inherently an electronic circuitry/logic that is operative to obtain a signal from the coil indicative of the active electronic article surveillance tag 102 (col. 7, lines 9+ and lines 51+).

Re claim 14: wherein the coil and electronic circuitry/logic are modular (figs. 1 & 2).

Re claim 15: Kawai et al discloses a checkout comprising: a processor (i.e., control unit 201); a scanner 80 in communication with the processor 201; an electronic article surveillance detector 70 in communication with the processor 201; an electronic article surveillance deactivator 61; and inherently a memory in communication with the processor 201 and storing program instructions which, when executed by the processor 201, causes the processor 201 to: (a) allow scanning of an item 100 for purchase via the scanner 201, (b) determine, after successful scanning of the item 100, whether the item 100 has an active electronic article

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surveillance tag 102 via the electronic article surveillance detector 70, and (c) allow deactivation of the active electronic article surveillance tag 102 after determining that the item 100 includes an electronic article surveillance tag 102 (figs. 1-2; col. 3, lines 60+; col. 6, line 43 through col. 42; col. 7, lines 58-62; col. 8, lines 48+ and lines 65+).

Re claim 16: wherein the electronic article surveillance detector 70 is associated with the scanner [30a, 80] (figs. 1 & 2).

Re claim 20: wherein the electronic article surveillance detector comprises a coil and electronic circuitry/logic, and the memory has further program instructions which, when executed by the processor 201, causes the processor 201 to cause the electronic circuitry/logic obtain a signal from the coil indicative of the active electronic article surveillance tag 102 (figs. 2 & 3).

Re claim 21: Kawai et al discloses a method of operating a checkout terminal comprising: scanning an item 100 with a scanner 80; determining (via detector 70) that the scanned item has an electronic article surveillance tag 102; allowing, after the step of determining, deactivation (via deactivator 60) of the electronic article 102; and disabling the scanner 80 from scanning other items based upon the step of determining (figs. 2 & 3; col. 7, line 47 through col. 10, line 63).

Re claim 22: further comprising: activating an indicia identifying the location of an active electronic article surveillance tag deactivator 60; and wherein the step of allowing further comprises allowing deactivation of the electronic article surveillance tag 102 with an active electronic article surveillance tag deactivator 60 (figs. 2 & 3).

Re claim 23: wherein the determining comprises determining that the item has an electronic article surveillance tag 102 with a first electronic article surveillance tag detector 70 (fig. 1).

Re claim 25: wherein the disabling comprises disabling the scanner from scanning other items until the electronic article surveillance tag has been deactivated (fig. 3; col. 10, lines 37-64; col. 11, line 64 through col. 12, line 3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 5-7, 10-12, 17-19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai et al (US 6719202 B1) in view of Bellis Jr. et al (US 6,598,791 B2). The teachings of Kawai et al have been discussed above.

Re claims 5-7, 10-12, 17-19 and 24: Kawai et al has been discussed above but fails to teach or fairly suggest that the system further comprising a second electronic article surveillance detector associated with a bagwell/security scale of the self-checkout and is operative to determine whether the electronic article surveillance tag has been deactivated by the electronic article surveillance deactivator.

Bellis Jr. et al teaches a bagging station 270 including an electronic article surveillance monitor 300 for detecting the presence of an active electronic article surveillance tag and a security scale 290 (fig. 1; col. 3, lines 37-51).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ the electronic article surveillance detector associated with a bagwell/security scale as taught by Bellis Jr. et al into the system of Kawai et al in order to provide Kawai et al with the ability of assuring (i.e., check for an active EAS tag a second time) all paid items having EAS tags are completely deactivated before brought out of the store, which would eliminates fault detection (i.e., failure to deactivate a tag in an active state would set off an alarm when passing through a controlled exit). Furthermore, such modification would provide Kawai et al with a more secure system (i.e., to prevent unscanned/unpaid items being bagged).

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai et al in view of Bergman et al (US 5,69,142 A). The teachings of Kawai et al have been discussed above.

Re claim 26: Kawai et al has been discussed above, but is silent with respect to indicating that an intervention is needed if the electronic article surveillance tag has not been deactivated with a predetermined time of allowing the deactivation.

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Bergman et al teaches an inquiry is made (i.e., alert operator) as to whether a tag intended to be deactivated is not deactivated after a predefined period of time (e.g., 350 milliseconds) (fig. 3; col. 3, lines 22-32).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further incorporate the step of alerting operator when the detected active EAS tag is not deactivated after a predefined period of time as taught by Bergman et al into the system of Kawai et al in order to ensure that all paid items having EAS tags are completely deactivated before brought out of the store, preventing fault detection when the customer passes through the controlled exit (i.e., failure to deactivate a tag in an active state would set off an alarm when passing through a controlled exit).

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawai et al in view of Bellis Jr. et al and Bergman et al. The teachings of Kawai et al and Bellis Jr. et al have been discussed above.

Re claim 27: Kawai et al has been discussed above, but is silent with respect to detecting the electronic article surveillance tag with an electronic article surveillance tag detector located in a baggage area of the terminal.

Bellis Jr. et al teaches a bagging station 270 including an electronic article surveillance monitor 300 for detecting the presence of an active electronic article surveillance tag and a security scale 290 (fig. 1; col. 3, lines 37-51).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ the electronic article surveillance detector associated with a bagwell/security scale as taught by Bellis Jr. et al into the system of Kawai et al in order to

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provide Kawai et al with the ability of assuring (i.e., check for an active EAS tag a second time) all paid items having EAS tags are completely deactivated before brought out of the store, which would eliminates fault detection (i.e., failure to deactivate a tag in an active state would set off an alarm when passing through a controlled exit). Furthermore, such modification would provide Kawai et al with a more secure system (i.e., to prevent unscanned/unpaid items being bagged).

Kawai et al as modified by Bellis Jr. et al has been discussed above, but is silent with respect to indicating that an intervention is needed if the electronic article surveillance tag has not been deactivated with a predetermined time of allowing the deactivation.

Bergman et al teaches an inquiry is made (i.e., alert operator) as to whether a tag intended to be deactivated is not deactivated after a predefined period of time (e.g., 350 milliseconds) (fig. 3; col. 3, lines 22-32).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further incorporate the step of alerting operator when the detected active EAS tag is not deactivated after a predefined period of time as taught by Bergman et al into the system of Kawai et al/Bellis Jr. et al in order to ensure that all paid items having EAS tags are completely deactivated before brought out of the store, preventing fault detection when the customer passes through the controlled exit (i.e., failure to deactivate a tag in an active state would set off an alarm when passing through a controlled exit).

Response to Arguments

10. Applicant's arguments with respect to claims 8-27 have been considered but are moot in view of the new ground(s) of rejection.

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Newly cited reference to Kawai et al has been used in the new ground of rejections to further meet the limitations of the claimed invention.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Lichtblau (US 3938044 A) and Collins, Jr. et al (US 6942145 B1) are cited as of interest and illustrate a similar structure to an AUTOMATIC ELECTRONIC ARTICLE SURVEILLANCE FOR SELF-CHECKOUT.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

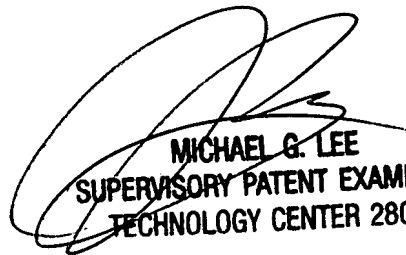
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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Uyen-Chau N. Le
Primary Examiner
Art Unit 2876

October 14, 2007



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